IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 2973 OF 2006

IN

FIRST APPEAL (St.) NO. 13581 OF 2006

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr.J.J.Xavier i/by Mr.S.H.Ujjainwalla for the Applicant.

Ms.Anu Singh i/by Manilal Kher & Ambalal for the Respondent.

CORAM: S.B.DESHMUKH, J.

DATE : 18TH AUGUST,2006

P.C.:

Heard learned Counsel for the respective parties.

2. By this application, the applicants are seeking condonation of delay of about 93 days occurred in filing the first appeal in this Court.

3. In paragraph no.3 of the application, the applicant has given various dates i.e. date of judgment

and decree, date of applying for the certified copy and receipt of the copy ultimately on 7th February, 2006. In paragraph no.4 of the application, it is alleged by the applicant, that certain procedure is required to be executed for filing of appeal in this Court. In this procedure and process, various departments of the applicant - Corporation are involved. According to the applicant, officers of one of the department, during the relevant time, were on strike. On account of this reason, delay of 93 days is caused in filing the appeal.

4. There is no reply affidavit filed on behalf of the respondent, disputing the allegations made in paragraph nos.3 and 4 by the applicant. Undisputedly, the applicant is a Corporation, prosecuting the first appeal filed in this Court. In the absence of any reply affidavit, the explanation tendered by the applicant in paragraph nos.3 and 4 of the application, is just and sufficient.

I am satisfied, that delay is caused for just and sufficient reason and is also bonafide. Looking to the fact and circumstances of the present case, in my view, costs is also not required to be directed to be paid by the applicant to the respondent.

5. In this view of the matter, the delay of about 93 days occurred in filing the first appeal is condoned. Civil application, accordingly, is allowed and disposed of.

Sd/-

(S.B.DESHMUKH, J.)